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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,666 10/08/2003		10/08/2003	Kevin I. Bertness	C382.12-0169	7255
27367	7590	10/06/2005		EXAMINER	
WESTMA	N CHAM	IPLIN & KELLY,	TSO, EDWARD H		
SUITE 1400 900 SECON		RNATIONAL CENT UE SOUTH	ART UNIT	PAPER NUMBER	
		V 55402-3319	2838		
			DATE MAILED: 10/06/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)						
Office Action Comments	10/681,666	BERTNESS, KEVIN I.						
Office Action Summary	Examiner	Art Unit						
	Edward H. Tso	2838						
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w. - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 6(a). In no event, however, may a reply be tin ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).						
Status								
1) Responsive to communication(s) filed on		·						
	-· action is non-final.							
,								
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.								
Disposition of Claims								
4)⊠ Claim(s) <u>1-27</u> is/are pending in the application.	•	•						
4a) Of the above claim(s) is/are withdrawn from consideration.								
5) Claim(s) is/are allowed.								
6) Claim(s) 1-27 is/are rejected.								
7) ☐ Claim(s) is/are objected to.								
8) Claim(s) are subject to restriction and/or	election requirement.							
Application Papers								
9)☐ The specification is objected to by the Examine	· t.							
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correcti	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.						
Priority under 35 U.S.C. § 119								
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119(a))-(d) or (f).						
 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 								
3. Copies of the certified copies of the prior	• •							
application from the International Bureau	•							
* See the attached detailed Office action for a list	, , , ,	ed.						
·	·							
Attachment(s)								
Notice of References Cited (PTO-892)	4) Interview Summary							
2)	Paper No(s)/Mail Di	ate Patent Application (PTO-152)						
Paper No(s)/Mail Date <u>1/7/04</u> .	6) Other:	F. F						

Application/Control Number: 10/681,666

Art Unit: 2838

DETAILED ACTION

Information Disclosure Statement

The IDS filed 1/7/04 has been considered and placed of record. An initialed copy is attached herewith.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertness (Us 6,316,914) in view of Applicant's own admitted art on page 11. The references do not explicitly disclose an integral torch/light to illuminate the area of testing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have integrated the light onto the testing probe, since it has been held that the constituent parts are so combined as to constitute a unitary whole. Webster's New International Dictionary (2nd Edition) defines "integral" as "(2) composed of constituent parts making a whole; composite; integrated." Therefore the use of a one piece construction instead of the two or more pieces would be merely a matter of obvious engineering choice. *In re Larson*, 144 USPQ 347 (CCPA 1952); *In re Fridolph*, 50 CCPA 745, 89 F.2d 509, 135 USPQ 319.

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Conclusion

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mike Sherry, can be reached on 571 272 2084.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 571 272 2800, Monday-Friday, 8:30am to 5:00pm, EST.

By:

EDWARD H TSO Primary Examiner 571 272 2087